

**PROPOSED WDC CONDITIONS: NORTHPORT LIMITED (AS AT HEARING DATED 20.11.23)
PORT EXPANSION, SH15, MARSDEN POINT**

Hearing Panel Comments – 1 December 2023

To undertake the following activities at or near Ralph Trimmer Drive, Marsden Point:

[To insert summary of activities/buildings/consents etc]

Commented [GH1]: To be inserted by the Applicant in the final set of conditions

Note: All location coordinates in this document refer to Geodetic Datum 2000, New Zealand Transverse Mercator Projection (unless expressly stated otherwise).

SUBJECT TO THE FOLLOWING CONDITIONS

DEFINITIONS:

- “Building”** means a temporary or permanent moveable or immovable physical construction that:
- (a) is partially or fully roofed, and
 - (b) is fixed or located on or in land, but
 - (c) excludes any motorised vehicle or other mode of transport that could be moved under its own power.
- “Council”** means Whangārei District Council or its successor;
- “Current Port Noise Contour Map”** means the map showing predicted incident port noise levels required to be prepared and updated pursuant to Condition 63(e).
- “Commencement of these consents”** means the date the last of the consents applied for by Northport for its Expansion Project commences according to s 116 of the RMA;
- “Expansion Project”** means the Northport expansion to the east of the existing consented and/or constructed port for the purposes of constructing, operating, and maintaining a container terminal as authorised by these consents (and associated regional consents), and all associated activities and works;
- “Major Structure”** means any:
- (a) vehicle used as residential activity, excluding temporary activities.
 - (b) network system exceeding 1.5m in height above ground level or 3m² ground coverage.
 - (c) fence or wall, or combination of either, greater than 2m in height above ground level. Where there is less than a 1m separation distance between any separate fence or wall, or combination of either, then

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their height must be measured from the lowest ground level of to the highest point of either.

- (d) tank or pool exceeding 35,000 litres.
- (e) structure greater than 2.2m in height above ground level or greater than 9m² ground coverage, including outdoor stockpiles or areas of storage, but excluding amateur radio configurations.

“Pocket Park”

means the public park (recreational open space) area near the south-eastern corner of the Expansion Project site, as shown in Boffa Miskell “Proposed Concept Plan”, BM220519-201 (Revision B, 25.7.22); and

“Port Activities”

means the use of land and/or Buildings for port related activities, including but not limited to:

- (a) port and ancillary port activities;
- (b) cargo handling, including the loading, unloading, storage, processing and transit of cargo;
- (c) debarking;
- (d) fumigation;
- (e) transport, storage and goods handling activities;
- (f) maritime passenger handling/services;
- (g) construction, maintenance and repair of port operations and facilities;
- (h) port administration;
- (i) refuelling/fuel handling facilities;
- (j) activities associated with surface navigation, berthing;
- (k) maintenance or repair of a reclamation or drainage system;
- (l) marine and port accessory structures and services;
- (m) repair and maintenance services and facilities ancillary to port activities;

“Practical Completion”

in relation to the reclamation, means the date that the completed reclamation (or any part thereof) is available for Port Activities;

“RMA”

means the Resource Management Act 1991;

“Suitably Qualified and Experienced”

means a person or persons with a recognised qualification and/or relevant experience relevant to the topic being assessed.

GENERAL:

1. The consent holder must undertake all authorised activities in general accordance with the descriptions and plans referenced in **Tables 1-A** and **1-B** below. In the event of any inconsistency between this information and these conditions, the conditions prevail.

Table 1-A: Approved Reports

Report title and reference	Author	Rev	Dated

Commented [GH2]: To be inserted by the Applicant in the final set of conditions

Table 1-B: Approved Plans/Drawings

Drawing title and reference	Author	Rev	Dated

2. A copy of these consents and the most up-to-date certified versions of all management plans required by these consent conditions must be kept on site at all times and made available to persons undertaking activities authorised by these consents.
3. Within ten (10) working days of the section 245(5) certificate being issued for the reclamation the consent holder must provide a copy of the certificate to the Council.
4. All monitoring/sampling required under these consents must be undertaken by or under the supervision of a Suitably Qualified and Experienced person(s).
5. At least thirty (30) working days in advance of the date of the commencement of works authorised by these consents, the consent holder must contact the Council to arrange for a site meeting with the consent holder's contractor(s) and the Council compliance officer prior to commencement of construction works. The details to be provided at the meeting, and then in writing no more than five (5) working days after the meeting, must include:
 - (a) The intended date of the commencement of works and a programme for the works.
 - (b) A draft programme for the CEMP and any other design plan, engineering plan, report or management plan required to be submitted for certification under these conditions (if not already provided).
 - (c) The intended date for providing the final design drawings to demonstrate how the works are in general accordance with the conditions of these consents, including **Appendix 1**.

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- (d) The nominated Consent Holder contact and contractor representative (or equivalent) for the works
- (e) Any intended staging of the works
- (f) A list of the proposed Suitably Qualified and Experienced Persons and Chartered Engineers proposed to be used in preparation of any design plans, engineering plan(s), report or management plan requiring Council certification.

Complaints

6. The consent holder must maintain a Complaints Register for the purpose of recording and dealing with any complaints that are received by the consent holder in relation to the exercise of these resource consents. The Complaints Register must record, where this information is available:
 - (a) Name of complainant, if provided to the consent holder;
 - (b) The date and time of the complaint;
 - (c) A description of the complaint;
 - (d) The location of the issue raised;
 - (e) Weather conditions at the time of complaint, including a description of wind speed and wind direction when the complaint occurred (if relevant).
 - (f) Any possible cause of the issue raised;
 - (g) Any investigations that the consent holder undertook in response to the complaint; and
 - (h) Any corrective action taken to address the cause of the complaint, including the timing of that corrective action; and
 - (i) Any feedback provided to the complainant.
7. The consent holder shall provide a copy of the complaints register to the Council within five working days of receiving a request to do so from the Council.

Certification

8. Where any condition requires the consent holder to submit design plans, engineering plans, a report or management plan to the Council for “**certification**” it must mean the process set out in the following paragraphs (a) to (d) and the terms “certify” and “certified” must have the equivalent meanings:
 - (a) The consent holder supplies design plans, engineering plans, reports, or a management plan to the Council, and the Council assesses the documentation submitted. The certification process for design plans, engineering plans, management plans and reports required by conditions of this consent must be confined to confirming that the plans or reports give effect to their purposes, consent condition requirements, and schedule requirements, and contain the required information;
 - (b) Should the Council determine that the documentation supplied in accordance with (a) above achieves the requirements of the relevant condition(s), the Council must issue a written confirmation of certification to the consent holder;

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- (c) If the Council's response is that it is not able to certify a design plan, engineering plan, management plan or report, it must provide the consent holder with reasons and recommendations for changes to the plan or report in writing. The consent holders must consider any reasons and recommendations of the Council and resubmit an amended design plan, engineering plan, management plan, or report for certification;
 - (d) A design plan, engineering plan, management plan or report cannot be subject to a third-party approval. The Council in deciding whether to certify the design plan, engineering plan, management plan or report, however, may also obtain advice from other qualified person(s).
9. This process in Condition 8 must be repeated until the Council is able to provide written confirmation that the requirements of the applicable condition(s) have been satisfied.
10. The consent holder must comply with the certified management plan or report at all times.

Review under s128 of the RMA

11. The Council may serve notice on the consent holder of its intention to review the conditions of these consents pursuant to Section 128 of the RMA either:
- (a) Annually during the month of March, for any one or more of the following purposes:
 - (i) To require the adoption of the Best Practicable Option to remove or reduce any adverse effect on the environment; or
 - (ii) To deal with any change(s) to the materials handled through the Port Terminal; or
 - (iii) To respond to any new technology, standards or monitoring parameters relevant to the environmental monitoring undertaken in accordance with these consents.
 - (b) At any time, for the following purpose:
 - (i) To deal with any adverse effects on the environment which may arise from the exercise of the consents and which it is appropriate to deal with at a later stage, including effects identified in the consent holders monitoring results or reports from activities authorised by these consents and/or as a result of Council's state of the environment monitoring in the area.
12. The consent holder shall meet all reasonable costs of any such review.

Stakeholder and Communications Management Plan

13. The consent holder shall prepare and implement a SCMP not later than 12 months prior to commencement of construction works. The purpose of the SCMP is to set out a framework for how the consent holder will communicate with the community, stakeholders and affected parties for the duration of construction, and the operation of the Expansion Project.
14. The SCMP shall set out, prior to construction, how the consent holder will:
- (a) Identify the stakeholders for communication;

Commented [GH3]: These words ("commencement of construction works") are used in a number of the conditions (eg 19, 21, 26, 34).

Does "commencement of construction works" refer to the reclamation works given the same condition is in the NRC consent.

If so "commencement of construction works" in this consent needs to reference to the NRC consent – as the SCMP is the same across the two sets of conditions?

Sometimes the words are "commencement of construction works authorised by these consents"

Consistency may be appropriate.

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- (b) Inform the community of project process and likely commencement of construction works and programme;
 - (c) Engage with the community and stakeholders to foster good relationships and provide opportunities for learning about the project;
 - (d) Utilise the project website to provide updates to the community;
 - (e) Communicate with tangata whenua regarding construction of the project;
 - (f) Respond to queries and complaints; and
 - (g) Provide updates on progress with management plans.
15. The SCMP shall set out the framework for how, during construction and operation, the consent holder will:
- (a) Engage with stakeholders such as Channel Infrastructure, Seafuels, affected landowners, tangata whenua, community groups, local businesses and representative groups, residents' organisations, other interested groups or individuals, network utility operators, Northland Regional Council and associated local authorities, Waka Kotahi, and the Council;
 - (b) Inform the Whangarei district community of construction progress, including proposed hours of work;
 - (c) Inform the Whangarei district community of ongoing dredging;
 - (d) Engage with the communities to foster good relationships and to provide opportunities for learning about the project;
 - (e) Provide information of key project milestones; and
 - (f) Make each management plan publicly available once a management plan is finalised, and for the duration of project works.
16. The consent holder shall prepare the SCMP in consultation with the following parties and submit the final SCMP for certification with the CEMP:
- (a) The Council;
 - (b) Whangarei District Council; and
 - (c) Iwi/hapū.

LAPSING OF CONSENTS

17. These resource consents will lapse twenty (20 years) after commencement, except the consents for port activities that are subject to Section 116(2) of the RMA for which the lapse date is five (5) years after the commencement of those resource consents.

Advice Note: Pursuant to section 116(2)(b) of the RMA any district resource consent relating to an area of the coastal marine area that is proposed to be reclaimed shall not commence until the proposed location of the activity has been reclaimed and a certificate has been issued under section 245(5) in respect of the reclamation.

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CONSENT SURRENDERS

18. Within three (3) months of the date of Practical Completion of the Expansion Project reclamation, the consent holder must give written notice to the Council of its intention to surrender of the following resource consents:

- (a) RC36355.1 (Berth 1 and 2); and
- (b) Decision #11 – Whangārei District Council: Land Use Consent No. 1 (Berth 3 and 4) (no known consent reference number).

Advice Note: *The surrender of the above resource consents will consolidate, including for monitoring and enforcement purposes, resource consents and conditions applying to the expanded Northport.*

DESIGN AND CONSTRUCTION OF RECREATIONAL FEATURES AND TRANSPORT INFRASTRUCTURE

Engineering Plan Approval

19. Prior to the commencement of construction authorised by these consents the consent holder shall provide a detailed set of engineering plans to the Council for approval. The plans shall be prepared in accordance with Council's Engineering Standards (2020 Edition or most relevant version at the time) and are to include:

- (a) Earthworks plans showing the finished interface between proposed Berth 5 and the adjoining esplanade reserve. Plans should demonstrate how public access (which offers a maximum 1:12 gradient for people with all levels of mobility) has been facilitated to the residual beach area to the east;
- (b) Design details of the construction of the Pocket Park private accessway, including the connection to Ralph Trimmer Drive, in accordance with the relevant engineering standards at the time [including a typical cross section, long section, culverts, drainage flow paths and overland flow;
- (c) Pocket Park and associated recreational features, including at least 26 car parks, street lighting, and a new public toilet as generally depicted on the Boffa Miskell "Proposed Concept Plan" BM220519-201 (Revision B, 25.7.22) at **Appendix 2**; and
- (d) Design details of reticulated network connections for sewer and water for the Pocket Park facilities (public toilet and water fountain) in accordance with Council's Environmental Engineering Standards (2020 Edition or most relevant version at the time).

20. All work on the approved engineering plans in Condition 19 is to be carried out to the satisfaction of the Council. Compliance with this condition shall be determined by:

- (a) Site inspections undertaken as agreed in Council's engineering plan approval letter/ Inspection and Test Plan;
- (b) Results of all testing, video inspection records of all wastewater and stormwater reticulation, PE pipeline pressure testing and weld data logging results;

Commented [GH4]: It does not appear to the Hearing Panel that there is a specified time when the pocket park (and associated recreational features) as set out in condition 19 (c) must be constructed.

Condition 20 requires the pocket park, but no time frame is given.

It may be addressed in condition 83 – Public Access.

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(c) PS4 and approval of supporting documentation provided by the developer's representative/s including evidence of inspections by those persons, and all other test certificates and statements required to confirm compliance of the works as required by Council's QA/QC Manual and the Council's Engineering Standards (2020 Edition or most relevant version at the time); and

(d) PS3 "Certificate of Completion of Development Works" from the Contractor.

21. No construction works authorised by each of the engineering plans in Condition 19 are to commence until the relevant engineering plan has been approved.

22. The consent holder must submit certified RAMM data for all new/upgraded roading infrastructure prepared by a suitably qualified person in accordance with Council's Engineering Standards (2020 Edition or most relevant version at the time) to the satisfaction of the Development Engineer or their delegated representative.

23. The consent holder shall ensure that spoil from the site must not be tracked out onto Council or State Highway Road formations to the satisfaction of the Council's Development Engineer or delegated representative.

24. All damage to street footpaths, stormwater kerb and channels, road carriageway formation, street berm and services by the demolition and construction works associated with the Consent Holder's activities shall be reinstated in accordance with Council's Engineering Standards (2020 Edition or most relevant version at the time). Any reinstatement works shall be undertaken at the expense of the consent holder and be completed to the approval of the Council.

Advice note: It is the consent holders responsibility to obtain any necessary non-RMA approvals to undertaken repair works within the road reserve.

25. The consent holder shall ensure the provision and maintenance of all assets listed in Condition 24 above in good working order for the duration of these consents. Parking and manoeuvring areas are required to maintain an urban finish (all weathered surface).

Pocket Park – Maintenance

26. At least three (3) months prior to the commencement of construction authorised by these consents the consent holder shall prepare and submit a Pocket Park Maintenance Management Plan for certification by the Council. The purpose of this plan is to detail ongoing maintenance requirements and responsibilities for the Pocket Park, to ensure recreational value is maintained for the public for the duration of these consents.

27. The Pocket Park Maintenance Management Plan shall be prepared with opportunity for input from the Council Infrastructure Planning and/or Parks Department (or equivalent at the time) and the [insert name of group formed under cultural conditions], where appropriate.

28. The consent holder shall maintain the Pocket Park in accordance with the Maintenance Management Plan certified by Condition 26 above for the duration of these consents.

Commented [GH5]:
What does "to the satisfaction of the Council's Development Engineer or delegated representative".
Mean? – and what is the process for informing and seeking the satisfaction of the Council's Development Engineer?
Should those words simply be deleted.

Commented [GH6]: When are these works to be done (ie the time frame)?

Commented [GH7]: As a land use consent there is no "duration" of these consents.
Should the wording be something like "while the consents are being exercised", or "in perpetuity"??
See condition 33 – landscaping "in perpetuity"

Commented [GH8]: To be provided

Commented [GH9]: Same comment as per condition 26

Landscape Planting

29. At least three (3) months prior to the commencement of construction authorised by these consents the consent holder must prepare a Landscape Planting Plan for the Expansion Project, including the Pocket Park, for certification by the Council.

The Plan must be prepared by a Suitably Qualified landscape architect and be for the purpose of detailing amenity planting associated with the construction of Berth 5, public coastal structures (water taxi and swimming steps), and the Pocket Park (including the access to Ralph Trimmer Drive). The Plan must be designed to reflect the coastal landscape and natural character values of the Whangārei Harbour entrance and Bream Bay area and must contain, at a minimum:

- (a) Details of security fencing, lighting, and landscaping measures to avoid a utilitarian feel, particularly along the Pocket Park access to Ralph Trimmer Drive;
- (b) Measures to address Crime Prevention Through Environmental Design risks and encourage opportunities for passive surveillance;
- (c) Replacement planting of multi-stemmed pohutukawa trees (*Metrosideros excelsa*) along the eastern edge of the revetment, between the Pocket Park and water taxi jetty, at a minimum density of one tree per 10m; and
- (d) Details of how specimen trees have been incorporated into the design, where appropriate, as replacements for the Public Trees removed from the coastal margins of the esplanade reserve.

Advice note: *Public Trees are defined "as any tree or trees located on a road reserve, park or reserve administered by Whangārei District Council greater than 6m in height or with a girth (measured 1.4m above the ground) greater than 600mm.*

30. The Landscape Planting Plan shall include at a minimum:
- (a) A schedule of the species to be planted, including the name, numbers, location, spacing and size of plant species at time of planting, planting density, details on the timing of plantings, and details of any existing vegetation to be retained;
 - (b) Proposed site preparation and plant establishment measures; and
 - (c) Ongoing maintenance and monitoring requirements, including any recommended ongoing pest and weed controls.

Advice Note: *Any planting will be designed and maintained to meet the security requirements of Maritime Security Act 2004.*

31. Prior to Practical Completion, all planting required by the certified Landscape Planting Plan in Condition 29 above shall be implemented in accordance with the details of that Plan. All planting shall be undertaken to the satisfaction of the Council.
32. Wherever practicable, all specimens shall be eco-sourced from within the Waipu Ecological District, as identified by the Department of Conservation's Protected Natural Areas Programme.

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33. The consent holder must maintain the landscape planting in accordance with the approved Landscape Planting Plan in Condition 29 above in perpetuity. If any plants fail or are removed, they shall be replaced as soon as practicable and prior to the end of the following planting season (April – October) with an equivalent specimen.

Mair Road Improvement Works (Augier Condition)

34. At least three (3) months prior to the commencement of construction, the consent holder shall present to the Council for Certification a Mair Road Recreation Area Improvements Feasibility Study (**Feasibility Study**).

Deleted:)

The objective of the Feasibility Study is to investigate potential improvements to the Mair Road carpark, beach access, and surrounding reserve area, to provide further mitigation of the effects of the port expansion project on the coastal access and recreation values of East Beach and the adjacent public park.

As a minimum the Feasibility Study shall include details of the following matters:

- a. Landowner (Department of Conservation) consultation/approvals.
 - b. Any related resource consents or other statutory approvals;
 - c. The estimated costs to implement the improvement works;
 - d. A programme and process to seek tangata whenua feedback on the improvement works;
 - e. A programme and process to seek public feedback on the improvement works;
35. Within three (3) months of Certification of the Feasibility Study by the Council, the Consent Holder must advise the Council whether it intends to implement the proposed improvement works in whole or in part.
36. Within twelve (12) months of confirmation of works to be undertaken in accordance with Condition 35, the Consent Holder must update the Council on progress of those works. If the works are not completed at that time, the consent holder must again update the Council on completion. All costs associated with designing, implementing, and reporting on the Feasibility Study shall be met by the Consent Holder.

Commented [GH10]: The Hearing Panel acknowledges this condition is offered on an Augier basis – and therefore we are not able to change it.

Given only “part” of the works may be constructed, to what extent can this condition be considered by the Hearing Panel as an “offset” for the loss of recreational amenity (beach) when we have no control over the extent of works to be undertaken?

CONSTRUCTION

Accidental discovery protocol

37. In the event of discovery of archaeological material during construction (e.g. intact shell midden, hangi, or storage pits relating to Māori occupation; or cobbled floors, brick or stone foundations, or rubbish pits relating to 19th century European occupation), work in the immediate vicinity must cease. Heritage NZ Pouhere Taonga, tangata whenua representatives and the Council must be notified as soon as reasonably practicable.
38. Work must not recommence in the immediate vicinity of the discovery until either: it has been determined that no Heritage New Zealand Pouhere Taonga approval(s) are required; or that any necessary Heritage New Zealand Pouhere Taonga approval(s) have been obtained.

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39. In the event of koiwi tangata (human remains) being uncovered, work in the immediate vicinity of the remains must cease. Mana Whenua, Heritage NZ Pouhere Taonga, NZ Police and the Council must be contacted so that appropriate arrangements can be made.

Advice Note: The Heritage New Zealand Pouhere Taonga Act 2014 makes it unlawful for any person to destroy, damage or modify the whole or any part of an archaeological site without the prior authority of Heritage New Zealand Pouhere Taonga.

Construction noise

40. Expansion Project construction noise from activities on land must not exceed the noise limits in Table One:

Table One: construction noise limits

RESIDENTIAL ZONES AND DWELLINGS IN RURAL AREAS:

Upper limits for construction noise received in residential zones and dwellings in rural areas

Time of week	Time period	Noise limits (dB)	
		L _{Aeq}	L _{AFmax}
Weekdays	0630-0730	55	75
	0730-1800	70	85
	1800-2000	65	80
	2000-0630	45	75
Saturdays	0630-0730	45	75
	0730-1800	70	85
	1800-2000	45	75
	2000-0630	45	75
Sundays and public holidays	0630-0730	45	75
	0730-1800	55	85
	1800-2000	45	75
	2000-0630	45	75

INDUSTRIAL OR COMMERCIAL AREAS:

Upper limits for construction noise received in industrial or commercial areas on all days

Time period	Noise limits (dB L _{Aeq})
0730-1800	70
1800-0730	75

Advice Note: The limits in **Table One** are reproduced from New Zealand Standard NZS 6803: 1999 “Acoustics -Construction Noise”

41. Construction noise must be measured and assessed in accordance with New Zealand Standard NZS 6803:1999 “Acoustics – Construction Noise”.

Commented [GH11]: What is the purpose of the “advice note” – and if it remains the Hearing Panel seeks confirmation that condition 40 applies irrespective of any change to the NZ Standard?

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Advice Note: Northland Regional Council resource consents for the Expansion Project include noise limits for construction noise from activities within the coastal marine area.

Commented [GH12]: Do the same noise limits need to be applied to the NRC consent in respect to the activities on the jetty adjoining the reclamation?

Construction Traffic Management Plan

42. At least three (3) months prior to the commencement of Expansion Project construction works, the consent holder must submit a Construction Traffic Management Plan (CTMP) to the Council for certification. The objective of the CTMP is detail the procedures, requirements and standards necessary for managing traffic effects during construction of the Expansion Project so that safe facilities for local movements by all relevant transport modes are maintained throughout the construction period. The CTMP must include:
- (a) The estimated numbers, frequencies, routes and timing of construction traffic movements;
 - (b) Any restriction on construction traffic routes, including Marsden Point Road;
 - (c) Methods required to manage vehicular traffic and/or to manage traffic congestion;
 - (d) Methods to manage the effects of temporary traffic management activities on general traffic;
 - (e) Measures to manage the safety of all transport users;
 - (f) Site access routes and access points for heavy vehicles,
 - (g) The size and location of parking areas for plant, construction vehicles and the vehicles of workers and visitors;
 - (h) Identification of detour routes and other methods for the safe management and maintenance of all users on existing roads;
 - (i) Methods to maintain vehicle access to property where practicable, or to provide alternative access arrangements when it will not be;
 - (j) Methods to maintain public access to Marsden Bay beach during construction, and signage to inform the public about beach access;
 - (k) The management approach to loads on heavy vehicles, including covering loads of fine material, the use of wheel-wash facilities at site exit points and the timely removal of any material deposited or spilled on public roads;
 - (l) Methods that will be undertaken to communicate traffic management measures to affected road users such as residents/public/emergency services; and
 - (m) Measures to ensure the safe disembarking/embarking of passengers on cruise vessels.
43. The CTMP must be prepared by a Suitably Qualified and Experienced person and in accordance with Council's requirements for CTMPs (as applicable) and New Zealand Guide to Temporary Management (April 2023) (or equivalent at the time). The CTMP shall be prepared in consultation with Waka Kotahi and Council.

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44. The CTMP must be certified in writing by the Council prior to construction works authorised commencing, and the consent holder must undertake all activities authorised by these consents in accordance with the certified CTMP (including any certified variation).
45. Any variation to the CTMP must be subject to certification by the Council.

Construction and Environmental Management Plan

46. At least three (3) months prior to the commencement of construction authorised by these consents, the consent holder must submit a Construction and Environmental Management Plan (CEMP) to the Council for certification. The objectives of the CEMP are:
 - (a) To detail the environmental monitoring and management procedures to be implemented during the Expansion Project's construction phase to ensure that appropriate environmental management practices are followed and adverse construction effects are minimised to the extent practicable; and
 - (b) To ensure construction effects of the Expansion Project are in accordance with the assessments accompanying the resource consent applications.
47. The CEMP must include the following sections:
 - (a) Construction phase roles and responsibilities protocols;
 - (b) Environmental Risk Assessment;
 - (c) Dust;
 - (d) Construction Noise;
 - (e) Traffic, including to demonstrate how the relevant conditions will be satisfied;
 - (f) Archaeology;
 - (g) Hazardous Substances;
 - (h) Public access, including to demonstrate how condition 52 will be satisfied;
 - (i) Erosion and Sediment Control; and
 - (j) Communications Protocols and Complaints Procedures.
48. The CEMP must be prepared by a Suitably Qualified and Experienced person, with advice from relevant technical experts, and be in general accordance with the draft CEMP provided as part of the resource consent application (Enviser, Draft Construction and Environmental Management Plan, October 2022).
49. The CEMP must be certified in writing by the Council prior to construction works authorised by these consents first commencing, and the consent holder must undertake all activities authorised by these consents in accordance with the certified CEMP (including any certified variation).
50. The CEMP may be submitted in stages to reflect the design and construction programme. If staging is proposed and any matters in Condition 47(c-i) are not relevant, a statement shall be provided of why management of these effects are not relevant to the particular stage of works.
51. Any variation to the CEMP must be subject to certification by the Council.

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Public access during construction

52. Public walking access from Ralph Trimmer Drive to the residual Marsden Bay beach area must be maintained during construction except for short durations where health and safety requires restriction.

Advice note: See also public access section of the CEMP.

Pavement damage to Ralph Trimmer Drive during construction

53. At least three (3) months prior to construction works commencing, the consent holder shall engage a Suitably Qualified and Experienced roading engineer to prepare a pre-construction conditional baseline assessment of the entirety of Ralph Trimmer Drive for certification by Council. The purpose of the assessment is to document the standard of the road corridor, footpath, kerb and channel, and associated stormwater infrastructure prior to construction works commencing.
54. Within six (6) months of Practical Completion, the consent holder shall engage a Suitably Qualified and Experienced roading engineer to undertake a post-construction conditional assessment of the entirety of Ralph Trimmer Drive for certification by Council. Where the post-construction condition assessment identifies that Ralph Trimmer Drive has deteriorated as the result of construction works relating to the Expansion Project, the consent holder shall, at its own cost, rectify the damage or pay the equivalent amount to the Council.

Commented [GH13]: Does this need to link to condition 24 and vice versa.

When does any work to "rectify the damage" need to be completed by – ie timeframe?

PORT OPERATION

Port Activities – location

55. From the first commencement of any of these resource consents, Port Activities may occur on any land within the area shown in the figure at **Appendix 1**

Advice Note: The definition of "Port Activities" is based on the current definition in the Whangārei District Plan (Operative in Part 2022).

Commented [GH14]: What is the purpose of the "advice note". Port Activities is a defined term in this suite of conditions.

If the advice note remains the Hearing Panel seeks confirmation that the definition Port Activities in the Definition section of these conditions apply irrespective of any change to the Whangārei District Plan (Operative in Part 2022)

Operational noise

Application

56. Upon Practical Completion of the Expansion Project reclamation, Conditions 57 to 67 apply to all Port Activities within the area shown in the figure at **Appendix 1**.

Advice Note: In accordance with Condition 18, the consent holder is required to provide written notice to the Council of its intention to surrender the existing Berth 1 and 2 and Berth 3 and 4 resource consents relating to port noise. This will consolidate, including for monitoring and enforcement purposes, the operational port noise resource consents and conditions applying to the expanded Northport, meaning that a single resource consent and single set of conditions will apply to all Northport operational port noise.

Port noise limits

57. Noise from Port Activities within the areas shown in the figure at **Appendix 1** must be measured and assessed in accordance with NZS 6809:1999 Acoustics – Port Noise Management and Land Use Planning.

Sensitivity: General

58. Noise from Port Activities within the areas shown in the Figure at **Appendix 1** must not exceed the levels shown in the Future Port Noise Map in Appendix 3 which reflects limits of 58 dB L_{dn} (5-day) in the Settlement Zone in Reotahi and 54 dB L_{dn} (5-day) in the Residential zone in Marsden Bay.

Advice Note: The noise contours in the Future Port Noise Contour Map were interpolated between grid points calculated at 10m intervals and 1.5m above ground level. Topographical contours and building outlines were sourced from LINZ (2017) and assumed a generic building height of 4.5m.

Port noise mitigation

59. Where the measured or predicted incident port noise level shown on the Current Port Noise Contour Map exceeds 55 dB L_{dn} (5-day) at the external façade of a habitable space in a residential unit existing at the Commencement of these consents, the consent holder must investigate, and if identified as required, offer to the landowner the option to install (at the consent holder's cost) mechanical ventilation, mechanical cooling, and/or other noise mitigatory works. The Current Port Noise Map is informed by a periodic review as part of the Port Noise Management Plan detailed in Condition 4. Any works must:
- Achieve an indoor design noise level no greater than 40 dB L_{dn} (5-day) in all habitable rooms of the residential unit when the windows and doors are closed;
 - Satisfy clause G4 of the New Zealand Building Code;
 - Provide occupant controlled ventilation that provides at least six (6) air changes per hour, or occupant controlled cooling that can maintain the inside temperature of the habitable room below 25°C;
 - Provide relief for equivalent volumes of spill air; and
 - Locate any outdoor heat pump condenser unit at least 5m from the direct external entrance to a living area.
60. Mechanical ventilation noise within mitigated dwellings identified in Condition 59 must be measured in accordance with AS/NZS 2107:2016 "Acoustics- Recommended design sound levels and reverberation times for building interiors". The mechanical ventilation noise levels in habitable spaces must not exceed the following on the low-speed setting:
- 30 dB L_{Aeq} in bedrooms, and
 - 40 dB L_{Aeq} in all other habitable spaces.
61. If the offer under Condition 59 is accepted by the landowner, the mechanical ventilation, cooling, and/or other noise mitigatory works must be installed at the expense of the consent holder within one (1) year of the offer being accepted, except that the Consent Holder shall not be responsible for more than ten (10) such installations in any calendar year.
- Advice Note:** The consent holder's obligations extend only to installation of the mechanical ventilation or cooling. To avoid doubt, the consent holder is not responsible for ongoing maintenance.
62. Acceptance of the offer under Condition 59 may be made by the landowner at any time throughout the duration of these consents.

Commented [GH15]: What is the process for identifying the exceedances

Commented [GH16]: What is the meaning of these word "and if identified as required"

Commented [GH17]: What are these "other mitigatory works" – double glazing? –

Should examples of "other mitigatory works" be included?

Commented [GH18]: What is the basis of "one year". Should it be something like "as soon as possible and no later than XX".

What is the basis of "shall not be responsible for more than ten (10) such installations in any calendar year"

We understand that there may be up to 16 dwellings 'affected'. Who decides, and what is the basis for determining which 10 dwellings will have work completed within any year.

If the condition is to mitigate the noise effects from the port, then should the condition be limited as proposed?

Commented [GH19]: Same comment about land use consents and duration as set out in other comments

Port Noise Management Plan

63. At least three (3) months prior to the commencement of any Expansion Project Port Activities (excluding Expansion Project construction) a Port Noise Management Plan must be prepared in accordance with the requirements in Section 8 of NZS 6809:1999 Acoustics – Port Noise Management and Land Use Planning and submitted to the Council for certification. The Port Noise Management Plan must contain the following information:
- (a) The Port Noise Management Plan objectives and methods to achieve the objectives, including:
 - (i) To ensure the consent holder complies with the noise limits in Condition 58;
 - (ii) To provide a framework for the measurement, real-time monitoring, assessment, and management of port noise levels;
 - (iii) To identify and adopt the best practicable options for the management of noise effects;
 - (iv) To engage with the community and manage noise complaints in a timely manner, including through participation in a Port Noise Liaison Committee to be established as a sub-committee of the existing Community Liaison Group;
 - (b) Real-time 24-hour noise modelling, noise monitoring, auditing, and reporting procedures to be undertaken and funded by the consent holder;
 - (c) Practices that will be used to manage noise effects, including procedures for achieving noise reduction through port operational procedures and staff and contractor training;
 - (d) Procedures to receive and respond to complaints, and to maintain a register of all complaints received, the details of the complaints, and any action taken to investigate and/or resolve the complaints;
 - (e) The Current Port Noise Contour Map;
 - (f) Identification of all properties where Condition 59 applies;
 - (g) Details of the Port Noise Liaison Committee required under Condition 63(a)(iv) including:
 - (i) The functions and processes of the Committee, including to consider all noise issues arising from the port and to ensure that mitigation functions identified in the Port Noise Mitigation Plan are carried out;
 - (ii) The members for the Committee and their roles, with Committee seat invitations being required to be made as follows:
 1. Two representatives of the port operator;
 2. Two port user representatives (with invitations to be made to two different port users);
 3. One representative of Northland Regional Council;
 4. One representative of Whangārei District Council;
 5. One community representative for Reotahi;
 6. One community representative for Albany Road;
 7. One representative of the Ruakākā Parish Residents & Ratepayers Association;

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8. One representative of the Whangārei Heads Citizens Association;
 9. One representative of Patuharakeke Te Iwi Trust Board; and
 10. One representative of Ngātiwai Trust Board;
 11. One representative of Te Parawhau Hapu.
- (iii) Details of the secretarial and logistical support to the Committee which must be provided and fully funded by the consent holder;
 - (iv) The frequency of Committee meetings, which must be annually at a minimum, and procedures for calling an emergency meeting of the Committee;
 - (v) Procedures for recording minutes of the Committee, which must be made publicly available;
 - (vi) Procedures for consideration by the consent holder of any recommendations by the Committee; and
- (h) Where applicable, any recommendations made by the Port Noise Liaison Committee, and any actions by the consent holder to implement those recommendations (this requirement must not apply to the first Port Noise Management Plan produced).
64. The Port Noise Management Plan, including the appended Current Port Noise Contour Map, must be revised annually (at a minimum). An annual report must be prepared for the Port Noise Liaison Committee that:
- (a) Details any changes to the Port Noise Management Plan and Current Port Noise Contour Map resulting from the revision; and
 - (b) Provides a record of:
 - (i) All acoustic mitigation works undertaken in the preceding twelve (12) months, including records of offers of mitigation that have been refused or not responded to; and
 - (ii) Any physical monitoring undertaken and the results of that monitoring.
65. The Port Noise Management Plan must be certified in writing by the Council prior to Expansion Project activities (excluding Expansion Project construction works) commencing. The consent holder must undertake all activities in accordance with the certified Port Noise Management Plan.
66. Any material variation to the Port Noise Management Plan, including as a result of a revision under Condition 64, must be subject to certification by the Council.
67. The first Port Noise Management Plan must be in general accordance with the draft Port Noise Management Plan provided as part of the resource consent application (*Marshall Day Acoustics: Northport Port Noise Management Plan, Rp 001 20170776, 3 August 2022*).

Operational lighting

68. From the first commencement of any of these resource consents, within the area shown in the figure at **Appendix 1**:
- (a) Artificial lighting required for health and safety purposes will not exceed the following standards:

Sensitivity: General

- (i) 15 Lux at the boundary of a road reserve; and
- (ii) 10 Lux at the boundary of any other allotment not within the ownership of the consent holder.

(b) Subject in each case to (a) above, the consent holder shall ensure that:

- (i) new flood lighting luminaires installed use LED (Light Emitting Diode) or LEP (Light Emitting Plasma) lamps or any other advanced technology lamps;
- (ii) all lighting poles have recessive colour finishes;
- (iii) where practicable, lighting is directed below the horizontal plane;
- (iv) the colour temperature of lamps used for new flood lighting are no more 4000°K; and
- (v) new flood lighting luminaires are designed so that the principal output is, as far as practicable, directed to within the container terminal and adjoining wharfs or to land that is zoned Port Zone.

69. The consent holder must engage a Suitably Qualified and Experienced lighting engineer to design/review new flood lighting installed at Northport.

Operational lighting management plan

70. At least three (3) months prior to Practical Completion, the consent holder shall prepare an Operational Lighting Management Plan (“OLMP”) for certification by the Council. The objectives of the OLMP is to minimise visual impacts and impacts on avifauna from the use artificial lighting during night-time Port operations authorised by this consent, having regard to Condition 68 and the requirements of the Avifauna Management Plan required by the regional consent conditions. The OLMP shall:

- (a) Detail the positions and technical specifications of all exterior light sources and indicate the means by which compliance with the relevant Whangārei District Plan artificial lighting standards are to be achieved; and
- (b) Include comments of the Community Liaison Group on the plan and the consent holder’s response to these.

Operational transport

Crash Monitoring Assessment

71. No later than 12 months following Practical Completion, the consent holder must engage an independent Suitably Qualified and Experienced Person to undertake a “Crash Monitoring Assessment”, utilising Waka Kotahi’s Crash Analysis System (CAS).

Thereafter the consent holder must undertake a Crash Monitoring Assessment biennially (every two years) for twenty years. The purpose of the Crash Monitoring Assessment is to determine a trend in crashes to identify any safety concerns (based on 7-days (Monday-Sunday), measured over 5-year periods) along SH15 from SH1 to Ralph Trimmer Drive, including at all intersections.

The “Crash Monitoring Assessment” shall include details of:

Sensitivity: General

- (a) The number and type of crashes, identifying those involving speed, such as loss of control and turning crashes, including where sight lines are only just met, with a focus on fatal and serious crashes;
 - (b) Vehicle type, weather, date/time of the crash (where such information is available); and
 - (c) Any mitigation recommended to address safety concerns.
72. The consent holder must provide a copy of the Crash Monitoring Assessment to Council, Waka Kotahi NZ Transport Agency, and the road controlling authority within one month of its completion.

SH15 Traffic Monitoring Report

73. No later than 18 months following Practical Completion, the consent holder must prepare a SH15 Traffic Monitoring Report, utilising the telemetry traffic data collected continuously on SH15 by Waka Kotahi, if available.

Advice Note: *The telemetry station site is located on SH15, just north-east of Bens View Road.*

Thereafter, the consent holder must undertake a SH15 Traffic Monitoring Report either:

- (a) Annually until replaced by the Northport Traffic Monitoring Report if the telemetry traffic data collected continuously on SH15 by Waka Kotahi is available to the consent holder; or
- (b) Once every three years until replaced by the Northport Traffic Monitoring Report, if the consent holder is required to collect traffic data (which is to be collected at the same location as the Waka Kotahi Telemetry site).

The purpose of the SH15 Traffic Monitoring Report is to identify if traffic volumes on SH15 at the telemetry site exceed either one of the following:

- (i) 970 vph two-way; or
- (ii) 670 vph one way;

for three or more days in any calendar month.

The consent holder must submit a copy of each SH15 Traffic Monitoring Report to the Council and Waka Kotahi NZ Transport Agency and the road controlling authority within one month of its completion.

Northport Traffic Monitoring Report

74. If the SH15 Traffic Monitoring Report required by Condition 73 shows that either of the traffic volumes on SH15 at the telemetry site are exceeded, the consent holder must continuously measure the volume of all port traffic at or near all the Northport entry and exit points during peak times as specified in Condition 75 Table Two: *Northport Peak Traffic Volumes*, and report on these volumes in the Northport Traffic Monitoring Report.

The Northport Traffic Monitoring Report is to be prepared six monthly or until all the intersections listed in Condition 75 Table Two: *Northport Peak Traffic Volumes* have received the recommended mitigation, as detailed within the Intersection Assessment Report required by Condition 77.

The consent holder must submit a copy of each Northport Traffic Monitoring Report to the Council, Waka Kotahi NZ Transport Agency, and the road controlling authority within one month of its completion.

Northport Traffic and Peak Times

75. If the Northport Traffic Monitoring Report identifies that port traffic exceeds the volumes set out in Table Two: *Northport Peak Traffic Volumes*, the consent holder must, within ten working days, Advise the Council, Waka Kotahi NZ Transport Agency and the road controlling authority of the exceedance and which of the following options it is proceeding with:

- (a) Reduce and maintain all port traffic below the Peak Trigger Volumes in Table Two; or
- (b) Engage a Suitably Qualified and Experienced person to undertake and prepare an Intersection Assessment Report as per Condition 77.

Table Two: Port Traffic Trigger Volumes

Intersection	Northport Inbound		Northport Outbound		Northport Inbound		Northport Outbound	
	Peak	AM Hour	Peak	AM Hour	Peak	PM Hour	Peak	PM Hour
	Trigger Volumes		Trigger Volumes		Trigger Volumes		Trigger Volumes	
SH15/Marsden Bay Drive	700		200		300		600	
SH15/Marsden Point Road	700		200		200		700	
SH15/One Tree Point Road	300		200		200		300	

Advice Note: For the purpose of these consents, the AM Peak hours are between the hours of 0630-0830 and the PM peak hours are between the hours of 1600-1800, weekdays excluding public holidays.

76. If the Consent Holder has elected to reduce and maintain all port traffic below the levels in Condition 75 Table 2: *Northport Peak Traffic Volumes*, then within two months of the initial exceedance, the consent holder shall provide written notice to Council, Waka Kotahi NZ Transport Agency, and the road controlling authority that identifies either that:

- (i) Traffic volumes are compliant with the limits specified in Table 2 above; or
- (ii) Traffic volumes remain in excess of the limits specified within Table 2 above measured during a continuous five-day weekday count.

If, within six months, the Consent Holder cannot reduce and maintain traffic volumes to the limits specified in Table 2: *Northport Peak Traffic Volumes*, then it must action Condition 77.

Intersection Assessment Report

77. If required by conditions 75 or 76, the Consent Holder shall engage a Suitably Qualified and Experienced person to undertake and prepare an Intersection Assessment Report.

Sensitivity: General

The purpose of the Intersection Assessment Report is to investigate safety and operational concerns and identify mitigation measures to address those safety and operational concerns at the intersection(s) for which the trigger volumes in Condition 75 Table 2: *Northport Peak Traffic Volumes* have been exceeded.

The report must include:

- (a) Traffic data collected at the relevant intersection(s) including traffic movements during peak and interpeak periods.
- (b) Intersection modelling methodologies and expected operation of these intersections, including Level of Service (LOS), queueing, and delays for 3 traffic volume scenarios:
 - (i) Using the observed data; and
 - (ii) Two future scenarios (reflecting appropriate design years reflecting port expansion timing), that include expected Northport traffic growth and other traffic growth.
- (c) Safe System assessments for the relevant intersection(s) listed in Table 2.
- (d) Recommended mitigation to address safety and operational concerns to achieve:
 - (i) LOS-D or better on each approach to the intersection (for scenarios that include existing traffic conditions and future scenarios that include all existing and anticipated port traffic generated by activities authorised by these consents); and
 - (ii) A degree of saturation for turning movements no higher than 95%

78. A copy of the Intersection Assessment Report is to be submitted to the Council, Waka Kotahi NZ Transport Agency, and the road controlling authority within three months of:

- (i) Condition 75(b) being notified to the Council, Waka Kotahi NZ Transport Agency and the road controlling authority as the selected option; or
- (ii) Condition 76 being activated.

79. Until the recommended mitigation detailed within the Intersection Assessment Report (required by condition 78) is implemented at the intersection(s), or as otherwise agreed by Council, Waka Kotahi NZ Transport Agency and the road controlling authority, all port traffic at peak times must be kept below the volumes outlined in Condition 75 Table 2: *Northport Peak Traffic Volumes*.

Active modes connection (Augier condition)

80. In the event that a future cycling route between Ruakaka and Marsden Cove gains funding for detailed design and/or implementation, the consent holder must investigate and implement an active modes connection from Northport to the new route, except that the Northport connection is not required to extend beyond Mair Road.

The active modes connection is not required to be on land owned by the consent holder.

BUILDINGS, STOCKPILES AND MAJOR STRUCTURES

81. Upon Practical Completion of the Expansion Project reclamation, within the area shown in the figure at **Appendix 1**:

Commented [GH20]: The Hearing Panel acknowledges this condition is offered on an Augier basis – and therefore we are not able to change it.

Given the condition is only 'activated' if funding is gained, to what extent can this condition be considered by the Hearing Panel as an "offsetting" any traffic related issues – and is this also an offset for the loss of recreational amenity?

No time frame is included for the consent holder to "investigate and implement an active modes connection from Northport to the new route."

Should a time frame be included?

Sensitivity: General

- (a) Building height and Major Structure height (excluding public utilities, light towers, silos, aerials, tanks, cargo handling equipment, cranes, and shipping containers) must not exceed 20m above ground level.
- (b) The height of public utilities, light towers, silos, aerials, tanks, and cargo handling equipment (excluding cranes and shipping containers) must not exceed 60m above ground level.
- (c) The operational height for cranes must not exceed 85m above ground level.
- (d) The height of shipping container stacks must not exceed 30m above ground level.
- (e) The height of stockpiles must not exceed 20m above ground level.

Advice Note: The definitions of “Building” and “Major Structure” in these resource consents are based on the current corresponding definitions in the Whangārei District Plan (Operative in Part 2022).

82. Upon Practical Completion of the Expansion Project reclamation, within Area A shown in the Figure at **Appendix 1**, buildings and major structures do not exceed a height equal to 3m above ground level plus the shortest horizontal distance between that part of the building or major structure and any Open Space and Recreation Zone boundary.

PUBLIC ACCESS

83. The construction of the Pocket Park required by **Condition 20** must be completed within 12 months of Practical Completion. The consent holder must provide public recreational access to and across the Pocket Park for the duration of these consents, except as required to ensure operational or public safety, or in an emergency response scenario.

Commented [GH21]: See earlier comment about this – should this time frame be included in condition 20?

Commented [GH22]: Same issue as raised in earlier comments

Advice Note: Revocation of the esplanade reserve for the Pocket Park must have Council resolution prior to construction.

84. Prior to Practical Completion, provide written evidence to the Council to demonstrate that public access to and along the Pocket Park has been formalised by an appropriate legal mechanism.
85. Restricted access from Ralph Trimmer Drive to Marsden Bay must occur for no longer than eighteen (18) months total.
86. The consent holder must continue to provide public access to the existing fishing jetty on the western edge of the reclamation from Papich Road.

LANDSCAPE PLANTING

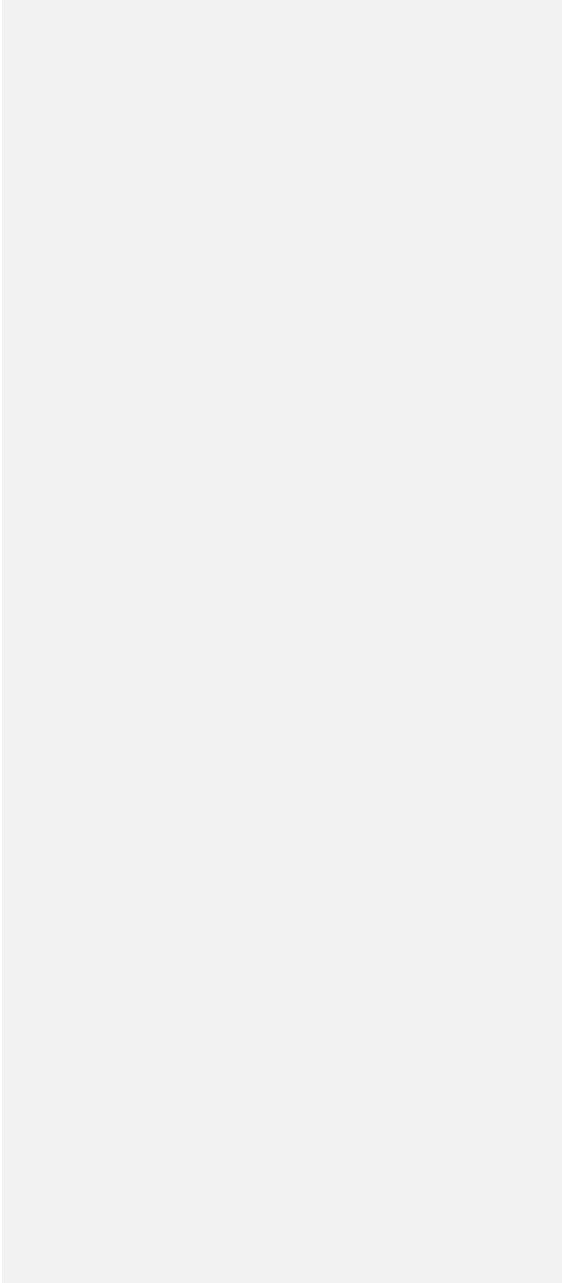
87. The consent holder must continue to maintain the landscape planting shown on the Stephen Brown Landscape Architecture Plan dated December 1999 and as amended on the Boffa Miskell Plan dated 31/01/2002 (copies of plans attached as **Appendix 2**) but excluding the Pohutukawa planting on the eastern side of the reclamation (area shown outlined in red on the plan in **Appendix 2**) which is to be removed.

Advice Note: Any planting will be designed and maintained to meet the security requirements of Maritime Security Act 2004.

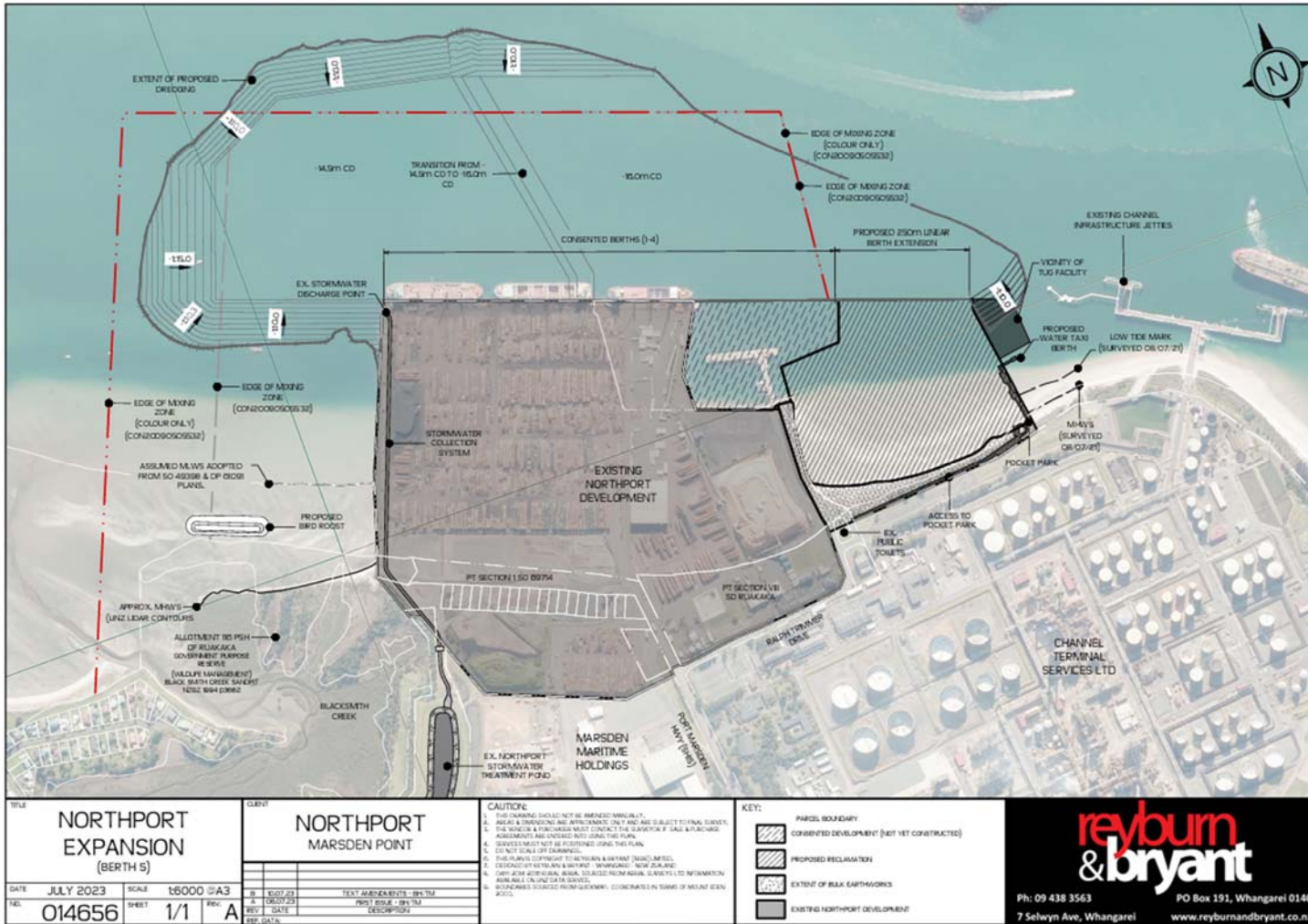
Sensitivity: General

APPENDIX 1: PLAN

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Sensitivity: General

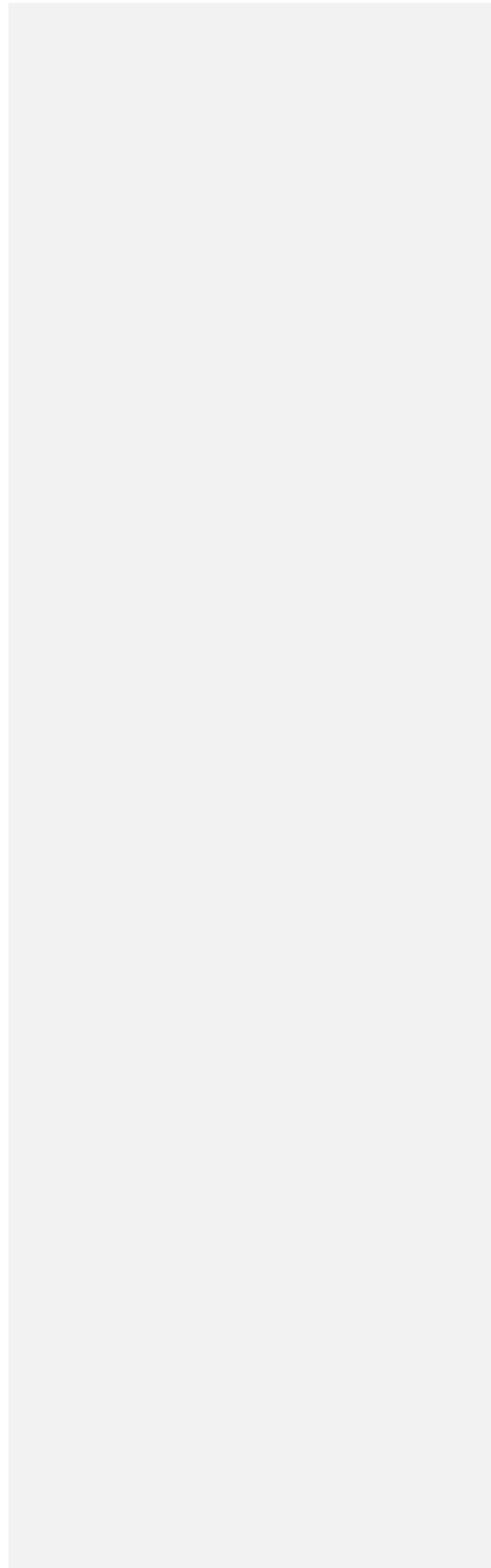


Conditions proposed by Northport (WDC) (20.11.23)

Sensitivity: General

APPENDIX 2: LANDSCAPE PLANTING PLANS

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Sensitivity: General

APPENDIX 3: FUTURE PORT NOISE MAP

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